ACQUISITION OF TITLE UNDER THE STATUTE OF LIMITATIONS. — An interesting question in the law of real property is raised by a recent Massachusetts decision. While the plaintiff's predecessor was in possession of certain land, under what the case calls a license from the owner, the latter conveyed the land in fee to a stranger. The occupant had no knowledge of this conveyance, and remained in possession for more than twenty years, thinking that the ownership was unchanged and the license still in force. It was held that, although the license was terminated by the conveyance and the occupant had ever since been liable to a writ of entry, the statute of limitations did not run because the occupant did not claim the fee, and because there was no disseisin except the fictitious one which the owner might force upon the occupant at any time for the purpose of bringing action. *Bond* v. *O'Gara*, 58 N. E. Rep. 275. It is difficult to understand from the meagre report in what sense the word license is used, but it is clear from the opinion that the occupant must have had complete possession. Otherwise his occupancy for any length of time could give nothing more than an easement, and the case would be summarily disposed of. Though there is some little authority to the contrary, it is almost unanimously held that complete possession under a bare permission from the owner creates a strict tenancy at will. *Den* v. *Drake*, 14 N. J. Law, 523. And furthermore, though it is frequently said that a conveyance by the landlord terminates a tenancy at will, it seems to be settled by the cases that the tenancy is not ended nor the tenant affected till he learns of the conveyance. *Pratt* v. *Farrar*, 10 Allen, 520; *Doe* v. *Thomas*, 6 Exch. 857. If we apply these doctrines to the principal case, it follows that the occupant was a tenant at will before the conveyance and that he remained so during his entire occupancy, since he never knew of the conveyance and there was no other determination of the will. The tenancy would be a peculiar one, for attornment being obsolete, he must have been the tenant of a man of whom he knew nothing, and the moment he learned whose tenant he was, he would cease to be a tenant at all. Nevertheless this curious result seems to be demanded by the authorities. It would follow at once that the statute of limitations did not run.

But the court evidently took a different view of the relations between the parties, though it is not quite clear whether they regarded the occupant as a trespasser or as a sort of tenant at sufferance. Two things, however, are definitely stated by the court: that the license was ended by the conveyance, and that a right of action had ever since existed. This latter proposition, if we look only at the language of the statute of limitations, would apparently be conclusive against any claim by the grantee; for the statute merely says that no right of action or entry shall be enforced except within twenty years of the time when the right first accrued. Rightly or wrongly, however, the courts in general seem never to have adopted so simple an interpretation of the statute. Influenced apparently by the doctrine of prescription, they have made adverse possession, of which the statute says nothing, the test of its application, and have frequently held possession not to be adverse though a right of action had existed for the statutory period. Yet admitting all this, it is hard to see why, if we adopt the view taken by the court of the relations between the parties, the possession in the principal case was not adverse. There may be adverse possession without disseisin. *Doe d. Parker* v. *Gregory*, 2 A. & E. 14. And though the occupant did not claim the fee

in himself, his holding involved a claim that the fee was in another not the true owner, a claim essentially adverse to the owner's title. It is held by the better authorities that there is adverse possession when a grantee occupies by mistake a strip of land which he erroneously supposes to be included in his deed, and there is little doubt that this doctrine would be applied if the same mistake were made by a lessee. *McNeely* v. *Langan*, 22 Ohio St. 32. But in such a case the lessee claims to hold the strip of land as belonging to one who in fact neither owns nor claims it, and under a lease which does not cover it. The case is exactly parallel to that of an occupant claiming to hold land as belonging to one not in fact the owner, under a license which is no longer in existence. Whether the occupant in such cases acquires title for himself, or for the one under whom he claims to hold, is a doubtful question which need not be here discussed. But if we exclude the idea of tenancy in the principal case, both the language of the statute and the character of the possession require the decision that either the occupant or his licensor had acquired title from the grantee under the statute.

Accordingly the decision that the statute did not begin to run can be supported only on the ground, not recognized by the court but apparently correct, that the occupant was a tenant at will during the entire period in question.

MURDER OF THE INSURED BY THE BENEFICIARY. — The cases determining the effect of the murder of the insured by the beneficiary, upon the liability of an insurer, are not numerous. In every case where this question has been passed upon it has been held that the murderer, at least, can derive no advantage from his crime. *Insurance Co.* v. *Armstrong*, 117 U. S. 591; *Cleaver* v. *Association*, [1892] 1 Q. B. 147. The Supreme Court of Iowa has recently furnished us with an interesting decision on the point. *Schmidt* v. *Northern Life Ass'n*, 83 N. W. Rep. 800. The beneficiary of a mutual benefit certificate murdered the insured. The court held that the association was a trustee for the beneficiary of the money payable on the certificate, but that her rights being barred by her crime, a resulting trust arose for the administrator of the insured. While the result of the principal case seems correct, it is difficult to concur in all the reasoning of the court. For as no specific portion of the association's assets was ever set apart to meet the claim on the certificate, there was no trust *res*, and consequently the association could not be a trustee. The court based its decision largely on *Cleaver* v. *Association*, *supra*. There the assignee of Mrs. Maybrick was claiming against the insurance company on a policy on Mr. Maybrick's life. The court held that by the Married Woman's Property Act the administrator of the insured held the right of action on the policy in trust for the beneficiary, but that as Mrs. Maybrick, the beneficiary, had murdered the insured, public policy terminated the trust as to her, and a resulting trust arose for the estate of the insured. But as Iowa has adopted the principle of *Lawrence* v. *Fox*, that it is the beneficiary of a contract who has the right of action, the administrator in the principal case could have no claim against the insurers on the policy. To the legal right of action of the beneficiary or her assignee — who could only sue in her name — the insurer had a complete defence on the ground of public policy. Yet it would be most unfortunate to allow the insurer to profit by the accident of